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PTO/SB/21 (04-07)

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<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/772,959
	Filing Date	January 31, 2001
	First Named Inventor	TEIXEIRA, Joseph
	Art Unit	2616
	Examiner Name	HO, Chuong T.
	Attorney Docket Number	7059542001
Total Number of Pages in This Submission		<i>b</i>

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Renewed Petition For Revival of An Unintentionally Abandoned Patent Application Under 37 CFR 1.137(b) w/Exh. A
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Bingham McCutchen LLP		
Signature			
Printed name	Robert C. Bertin		
Date	<i>8/15/08</i>	Reg. No.	41,488

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: J. TEIXEIRA

Attorney Docket No: 7059542001

Application No.: 09/772,959

(formerly 19176.0006)

Group Art Unit: 2616

Filed: January 31, 2001

Examiner: HO, Chuong T.

For: SYSTEM AND METHOD FOR SWITCHING  
DIGITAL SUBSCRIBER LINE SERVICE

**RENEWED PETITION FOR REVIVAL OF AN UNINTENTIONALLY  
ABANDONED PATENT APPLICATION UNDER 37 CFR 1.137(b)**

**Mail Stop Petitions**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Assignee, through the undersigned, respectfully submits this Renewed Petition for Revival of the above-identified application, which has become abandoned for failure to timely respond to the outstanding office action.

In the Denial of Petition, attached as Exhibit A hereto, the Petitions Examiner indicated that the petition was rejected because the original petition lacked a statement that the entire period of delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional. Applicant hereby states that the entire period of delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional.

The applicant respectfully submits that this Renewed Petition addresses the basis for the denial of the original Petition and respectfully requests reconsideration of the original and Renewed Petition. If any additional fees are required for the consideration of this Renewed Petition, please

charge such fees to Bingham McCutchen, LLP Deposit Account No. 50-4047 (Order No.: 7059542001).

Respectfully submitted,  
Bingham McCutchen LLP

Dated: August 15, 2008

By: 

Robert C. Bertin, Registration No. 41,488  
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**EXHIBIT A**



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WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of  
Joe TEIXEIRA  
Application No. 09/772,959  
Filed: January 31, 2001  
Attorney Docket No. 7059542001

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 05, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time under 37 CFR 1.136 were timely obtained. Accordingly, the date of abandonment of this application is April 06, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3) in that statement about the delay being unintentional included with the petition is not acceptable. The unintentional delay statement by attorney Bertin is silent as to the nature of delay from the date the replay was due until the filing of a grantable petition. The petitioner is urged to consider using the form PTO/SB/64 available at [www.uspto.gov](http://www.uspto.gov).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Since the \$525 extension of time fee submitted with the petition on February 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

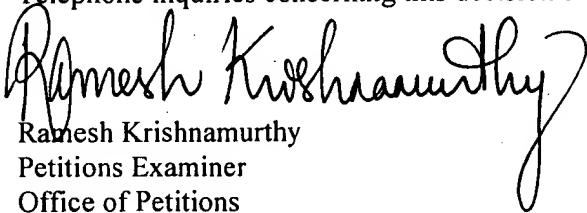
Further correspondence with respect to this matter should be addressed as follows:

By Mail:                      Mail Stop PETITION  
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By hand:                     U. S. Patent and Trademark Office  
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                                    401 Dulany Street  
                                    Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

  
Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions